



May 23, 2018

WSBA Rules Committee  
1325 Fourth Avenue, Suite 600  
Seattle, WA 98101-2539

RE: Proposed amendments to CrR 4.4 – Severance of Offenses and Defendants and CrR 8.2 Motions

Dear WSBA Rules Committee:

The Washington Defender Association (WDA) is writing to express our concerns with several of the proposed amendments under consideration by the WSBA Rules Committee. Specifically:

- **CrR 4.4 – Severance of Offenses and Defendants.** We strongly believe the “timely” requirement under 4.4(b) should be applied to all parties not just the defense. We would suggest the language be amended to say, “The court, on timely application of the prosecuting attorney or on timely application of the defendant....”
- **CrR 8.2 – Motions.** We have serious concerns with the proposed change as it fails to address the defense’s obligation to perfect the record and to provide effective assistance of counsel. There are a number of motions that the defense must bring on a repeated basis to preserve their clients’ rights on appeal or to address changing circumstances, such as CrR3.2(k) - Bail, CrR 4.4 - Severance and CrR 4.7(h)(2) - Continuing Duty To Disclose. To address these concerns, we would suggest the language be amended to say:

Rules 3.5 and 3.6 and CR 7(b) shall govern motions in criminal cases. A motion for reconsideration shall be filed not later than 10 days after the entry of the order or other decision unless the court finds good cause to extend the time frame.

In addition we would note that if the rule is to be amended in Superior Court, it also should be amended in the District Court rule.

No concerns were identified with the other proposed changes to CrR 1.3, CrR 3.4 and RAP 5.2.

Thank you for your consideration. Please let us know if you have any questions or if we can provide further information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Harry Gasnick', with a stylized, somewhat abstract shape.

Harry Gasnick  
Chair, WDA Court Rules Committee

A handwritten signature in black ink, appearing to read 'Christie Hedman', in a cursive style.

Christie Hedman  
Executive Director